

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 17

## Endangered and Threatened Wildlife and Plants; Determination That Three Hawaiian Plants Are Endangered Species

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** The Service determines that *Stenogyne angustifolia* var. *angustifolia*, *Haplostachys haplostachya* var. *angustifolia* and *Lipochaeta venosa* are Endangered species. All three plants are confined to Kipuka Kalawamauna, an area on the Island of Hawaii, Hawaii, and have declined as the result of grazing by feral animals, competition with exotic vegetation, and human disturbance of their habitat. The present action will afford these three taxa the protection provided by the Endangered Species Act of 1973, as amended.

**EFFECTIVE DATE:** November 29, 1979.

**FOR FURTHER INFORMATION CONTACT:** Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (703/235-1975).

**SUPPLEMENTARY INFORMATION:****Background**

The three plants treated in the present rule are definitely known at the present time only from populations within Kipuka Kalawamauna, on the Island of Hawaii, Hawaii, although all were once more widely distributed on the island. A kipuka is a vegetated area surrounded by relatively recent lava flows. The extirpation of historic populations of these taxa has apparently been due to human disturbance and the impact of feral animals and introduced weedy vegetation, rather than volcanic activity.

Section 12 of the Endangered Species Act of 1973 (hereinafter, the Act) directed the Secretary of the Smithsonian Institution to conduct a review of species of plants which were then or might become Endangered or Threatened according to the criteria set forth in the Act. That review led to the publication of House Document 94-51, Report on Endangered and Threatened Plant Species of the United States, which included a list of those plant species of the United States considered by the Smithsonian Institution to qualify for Endangered or Threatened status as defined in the Act. That report was

accepted by the Service as a petition within the context of the Act, and was the principal basis for a notice published by the Service in the *Federal Register* of July 1, 1975 (40 FR 27824-27924), indicating that over 3,000 plant taxa were being considered by the Service for listing as Endangered or Threatened.

Subsequently, in the June 16, 1976 *Federal Register* (41 FR 24524-24572), the Service published a proposal advising that sufficient evidence was then on file to support determinations that 1,783 plant taxa were Endangered species as defined by the Act. That proposal indicated that each of the included taxa was in danger of extinction over all or a significant portion of its range because of one or more of the factors set forth in Section 4(a) of the Act as appropriate grounds for a determination of Endangered status; specified prohibitions which would be applicable if such a determination were made; and solicited comments, suggestions, objections, and factual information from all interested persons. A public hearing regarding the proposal was held on July 14, 1976, in Honolulu, Hawaii. Notification of the proposal and a solicitation for comments or suggestions were sent on July 1, 1976 to the Governor of Hawaii and other interested parties. *Haplostachys haplostachya* var. *angustifolia*, *Lipochaeta venosa*, and *Stenogyne angustifolia* var. *angustifolia*, were among the taxa included in House Document 94-51, the July 1, 1975 notice and the June 16, 1976 proposal.

In the June 24, 1977 *Federal Register*, the Service published a final rule (43 FR 32373-32381, codified at 50 CFR, Part 17) detailing regulations to protect Endangered and Threatened plant species. The rule established prohibitions and a permit procedure to grant exemptions to the prohibitions under certain circumstances.

The Department has determined that this is not a significant rule and does not require the preparation of a regulatory analysis under Executive Order 12044 and 43 CFR 14.

**Summary of Comments and Recommendations**

Section 4(b)(1)(c) of the Act requires that a summary of all comments and recommendations received be published in the *Federal Register* prior to adding any species to the List of Endangered and Threatened Wildlife and Plants. In keeping with the spirit of this requirement, such summaries are also included in rules listing plant species as Endangered or Threatened.

All comments received during the period from June 16, 1976 to September 1, 1979 were considered in formulating

the present final rule. Most comments did not address themselves to particular plant taxa, but rather expressed general points of view regarding plant conservation. Such general comments were summarized in the *Federal Register* of April 26, 1978 (43 FR 17910-17916).

The State of Hawaii provided a list of species it considered to qualify for Endangered status in the state. Of the taxa treated in the present rule, only *Lipochaeta venosa* appeared on the list provided by the State. At that time, *Haplostachys haplostachya* var. *angustifolia* was believed to be extinct and was presumably omitted for that reason. No reason was stated for the absence of *Stenogyne angustifolia* var. *angustifolia* from the list; but from comments provided by the State, it appears that the taxon was considered ineligible because of its taxonomic status as a variety, rather than a species or subspecies. The Service has previously explained its policy of treating the ranks of subspecies and varieties of plants as interchangeable for purposes of the Act (43 FR 17910-17916).

**Conclusion**

After a thorough review and consideration of all the information available, the Director has determined that *Haplostachys haplostachya* (Gray) St. John var. *angustifolia* (Sherff) St. John, *Stenogyne angustifolia* Gray var. *angustifolia*, and *Lipochaeta venosa* Sherff are in danger of becoming extinct throughout all or a significant portion of their known ranges due to the factors enumerated in Section 4(a) of the Act, as amplified below:

1. *The present or threatened destruction, modification, or curtailment of habitat or range.* Suitable habitats within the confirmed range of these taxa have been adversely affected by the grazing and browsing of feral sheep and goats and by trampling by military units using the Pohakuloa training area. Accidental fires set by hunters or military ordnance have also destroyed native vegetation in the area. Sites disturbed by burning, trampling or grazing are often invaded by exotic weedy plants, to the exclusion of native species. All three taxa have apparently been extirpated in portions of their historic ranges by similar factors.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.* Not known to affect these taxa.

3. *Disease or Predation.* Direct exploitation as a food source by feral goats and sheep has undoubtedly had a

serious impact on these plants, as it has generally on native plants in Hawaii.

4. *The inadequacy of regulatory mechanisms.* The army prohibits the removal of native vegetation on the Pohakuloa Training Area. With respect to the subject taxa, listing as Endangered would tend to reinforce this existing restriction.

5. *Other natural or manmade factors affecting continued survival.* It is possible that material of these taxa has been cut and used as camouflage for military vehicles and personnel during maneuvers. It is common practice for vegetation in the area to be used indiscriminately for such purposes.

#### Effect of the Rulemaking

Section 7(a) of the Act, as amended, provides:

The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act. Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency (hereinafter referred to as an "agency action") does not jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical, unless such agency has been granted an exemption for such action by the Committee pursuant to subsection (h) of this section.

Provisions for interagency cooperation were published on January 4, 1978, in the *Federal Register* (43 FR 870-876) and codified at 50 CFR Part 402. These regulations are intended to assist Federal agencies in complying with Section 7 of the Act. The present rule requires Federal agencies to satisfy these statutory and regulatory obligations with respect to the plants treated herein. Endangered species regulations in Title 50 Part 17 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all Endangered species. The regulations which pertain to Endangered plants are found at Section 17.61-17.63 (42 FR 32373-32381).

With respect to these plants, all pertinent prohibitions of Section 9(a)(2) of the Act, as implemented by 50 CFR Part 17.61 will apply. These prohibitions, in general, make it illegal for any person

subject to the jurisdiction of the United States to import or export Endangered plants; deliver, receive, carry, transport, or ship them in interstate commerce in the course of a commercial activity; or to sell or offer them for sale in interstate or foreign commerce.

Section 10 of the Act and the regulations referred to above provide for the issuance of permits to carry out otherwise prohibited activities involving Endangered species under certain circumstances. Such permits involving Endangered species are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

#### Effect Internationally

In addition to the protection provided by the Act, the Service will review these plants to determine whether they should be proposed to the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora for placement upon the appropriate appendix (ices) to that Convention or whether they should be considered under other appropriate international agreements.

#### National Environmental Policy Act

An environmental assessment has been prepared and is on file in the Service's Washington Office of Endangered Species. The assessment is the basis for a decision that this determination is not a major Federal action which significantly affects the quality of the human environment

within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

#### Critical Habitat

The Endangered Species Act Amendments of 1978 added the following provision to subsection 4(a)(1) of the Endangered Species Act of 1973:

At the time any such regulation [to determine a species to be Endangered or Threatened] is proposed, the Secretary shall by regulation, to the maximum extent prudent, specify any habitat of such species which is then considered to be critical habitat.

The three species treated in this rule are known at present to occur only in one small portion of the Pohakuloa Training Area, adjacent to and easily accessible from a jeep road that is open to the public. It is not considered prudent at the present time to specify an area of Critical Habitat for these species because of the threat of vandalism. All three occur in such small numbers that any picking or cutting would seriously jeopardize their survival.

The primary authors of this rule are Dr. Derral Herbst, U.S. Fish and Wildlife Service, 300 Ala Moana Blvd., Room 5302, Honolulu, Hawaii 96850, and Dr. John J. Fay, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235-1975).

#### Regulation Promulgation

Accordingly, § 17.12 of Part 17 Chapter I of Title 50 of the U.S. Code of Federal Regulations is amended as follows:

1. Section 17.12 is amended by adding, in alphabetical order, by family genus, and species, the following plants:

#### § 17.12 Endangered and threatened plants.

Species		Range		Status	When listed	Special rules
Scientific name	Common name	Known distribution	Portion endangered			
Asteraceae—Aster family:						
<i>Lipochaeta venosa</i> .....	None.....	U.S.A. (HI).....	Entire.....	E	69	NA
*	*	*	*	*		*
Lamiaceae—Mint Family:						
<i>Haplostachys haplostachya</i> var.						
<i>angustifolia</i> .....	None.....	U.S.A. (HI).....	Entire.....	E	69	NA
<i>Stenogyne angustifolia</i> var. <i>angustifolia</i> .....						
	None.....	U.S.A. (HI).....	Entire.....	E	69	NA
*	*	*	*	*		*

Dated: October 23, 1979.

Robert S. Cook,

Deputy Director, Fish and Wildlife Service.

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## 50 CFR Part 17

**Endangered and Threatened Wildlife and Plants; Determination That *Kokia cookei* Is an Endangered Species****AGENCY:** Fish and Wildlife Service, Interior.**ACTION:** Final rule.

**SUMMARY:** The Service determines that *Kokia cookei* (Cooke's kokio) is an Endangered species. This plant has been extirpated from the wild in its native range on the island of Molokai, Hawaii and now survives as a single specimen in an arboretum. The disappearance of the wild population of this species was due to destruction of its native habitat by the activities of domestic livestock. The present action will afford this species the protection provided by the Endangered Species Act of 1973, as amended.

**EFFECTIVE DATE:** November 29, 1979.**FOR FURTHER INFORMATION CONTACT:**

Mr. John L. Spinks, Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240, 703/235-2771.

**SUPPLEMENTARY INFORMATION:****Background**

The precise original range of *Kokia cookei* (Cooke's kokio) is unknown, but it was presumably a constituent of open lowland dry forest or scrub vegetation on western Molokai, County of Maui, Hawaii. Extensive habitat modification brought about principally by the activities of grazing animals resulted in its reduction to a single specimen in the early part of this century. Repeated attempts at propagating *K. cookei* have met with very limited success, so that at the present time the species is again represented by a single specimen, this one growing in an arboretum on the island of Oahu. In addition, tissue culture material of this species is maintained in a laboratory in Japan. The genus *Kokia* is confined to the Hawaiian islands and is related to *Gossypium*, which includes the cultivated cottons.

Section 12 of the Endangered Species Act of 1973 (hereinafter, the Act) directed the Secretary of the Smithsonian Institution to conduct a review of species of plants which were then or might become Endangered or Threatened according to the criteria set forth in the Act. That review led to the publication of House Document 94-51, Report on Endangered and Threatened Plant Species of the United States, which included a list of those plant species of the United States considered

by the Smithsonian Institution to qualify for Endangered or Threatened status as defined in the Act. That report was accepted by the Service as a petition within the context of the Act, and was the principal basis for a notice published by the Service in the **Federal Register** of July 1, 1975 (40 FR 27824-27924), indicating that over 3000 plant taxa were being considered by the Service for listing as Endangered or Threatened.

Subsequently, in the June 16, 1976 **Federal Register** (41 FR 24524-24572), the Service published a proposal advising that sufficient evidence was then on file to support determinations that 1783 plant taxa were Endangered species as defined by the Act. That proposal indicated that each of the included taxa was in danger of extinction over all or a significant portion of its range because of one or more of the factors set forth in Section 4(a) of the Act as appropriate grounds for a determination of Endangered status; specified prohibitions which would be applicable if such a determination were made; and solicited comments, suggestions, objections, and factual information from all interested persons. A public hearing regarding the proposal was held on July 14, 1976, in Honolulu, Hawaii. Notification of the proposal and a solicitation for comments or suggestions were sent on July 1, 1976, to the Governor of Hawaii and other interested parties. *Kokia cookei* was among the taxa included in House Document 94-51, the July 1, 1975 notice, and the June 16, 1976 proposal.

In the June 24, 1977 **Federal Register**, the Service published a final rule (43 FR 32373-32381, to be codified at 50 CFR, Part 17) detailing regulations to protect Endangered and Threatened plant species. The rule established prohibitions and a permit procedure to grant exemptions to the prohibitions under certain circumstances.

The Department has determined that this is not a significant rule and does not require the preparation of a regulatory analysis under Executive Order 12044 and 43 CFR 14.

**Summary of Comments and Recommendations**

Section 4(b)(1)(c) of the Act requires that a summary of all comments and recommendations received be published in the **Federal Register** prior to adding any resident species of wildlife to the list of Endangered and Threatened Wildlife. In keeping with the spirit of this requirement, such a summary is also included in any final rule listing a plant species as Endangered or Threatened.

All comments received during the period from June 16, 1976 to October 1, 1979 were considered in formulating the present final rule. Most comments did not address themselves to particular plant taxa, but rather expressed general points of view regarding plant conservation. Such general comments were summarized in the **Federal Register** of April 26, 1978 (43 FR 17910-17916).

The State of Hawaii provided a list of species it considered to qualify for Endangered status in the state. *Kokia cookei* was included in the list provided by the State. No other comments were received that specifically addressed this species.

**Conclusion**

After a thorough review and consideration of all the information available, the Director has determined that *Kokia cookei* Degener (Cooke's kokio) is in danger of becoming extinct throughout all of its range due to the factors described in Section 4(a) of the Act, as amplified below.

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The native habitat of *Kokia cookei* has been extensively modified, principally as a result of the activity of introduced cattle. Native Hawaiian vegetation is not adapted to the pressure of grazing by large herbivorous mammals and is extremely sensitive to such disturbance. Weedy exotic plants such as *Lantana camara* L., various species of *Stachytarpheta*, *Mimosa pudica* L. and various grasses, which are more resistant to grazing, have become the dominant vegetation in many of the drier parts of the state.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.* The bark of another species of *Kokia* was the source of a dye formerly used on fishnets. Similar use of *K. cookei* may have contributed to its decline, but this has not been confirmed.

3. *Disease or predation.* Livestock are reported to have eaten both leaves and bark of this species in the wild. Its rate of reproduction may have been reduced by insect larvae, which reportedly ate a large proportion of the seeds produced by the plants on Molokai.

4. *The inadequacy of regulatory mechanisms.* This species has never before been subjected to protective regulation.

5. *Other natural or manmade factors affecting its continued survival.* The showy red flowers of *Kokia* species may be adapted to pollination by birds.